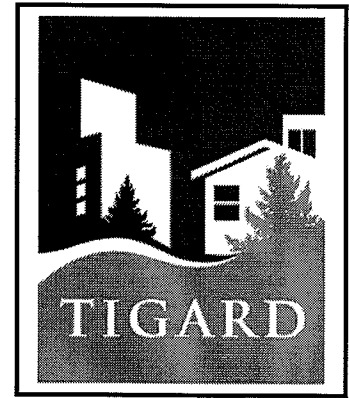




TIGARD CITY COUNCIL
WORKSHOP MEETING

JANUARY 16, 2007 6:30 p.m.

TIGARD CITY HALL
13125 SW HALL BLVD
TIGARD, OR 97223



PUBLIC NOTICE:

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Citizen Communication items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are estimated; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. Business agenda items can be heard in any order after 7:30 p.m.

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

A G E N D A
TIGARD CITY COUNCIL WORKSHOP MEETING
JANUARY 16, 2007

6:30 PM

1. WORKSHOP MEETING
 - 1.1 Call to Order - City Council
 - 1.2 Roll Call
 - 1.3 Pledge of Allegiance
 - 1.4 Council Communications & Liaison Reports
 - 1.5 Call to Council and Staff for Non-Agenda Items:

2. ANNEXATION POLICY DISCUSSION
Staff Report: Community Development Department

3. JAYWALKING ORDINANCE DISCUSSION
Staff Report: Police Department

4. GRAFFITI ORDINANCE DISCUSSION
Staff Report: Police Department

5. AFTER SCHOOL PROGRAMS DISCUSSION
Staff Report: Police Department

6. GEOGRAPHICAL INFORMATION SYSTEM PROJECT AND PRESENTATION OF
THE CRIME ANALYSIS APPLICATION
Staff Report: Financial and Information Services Department

7. ADDITIONAL FUNDING REQUEST FOR PAVEMENT MANAGEMENT SERVICES
Staff Report: Community Development Department

8. IDENTIFY TOPICS FOR AGENDA FOR THE JOINT MEETING WITH TIGARD-
TUALATIN SCHOOL DISTRICT TO BE HELD JANUARY 29, 2007
Staff Introduction: Administration Department

9. NON AGENDA ITEMS

10. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
11. ADJOURNMENT

i:\adm\cathy\cca\2007\070116p.doc

Agenda Item #

2

Meeting Date

January 16, 2007

COUNCIL AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Annexation Policy Discussion

Prepared By: Ron Bunch

Dept Head Approval:

TC/jil

City Mgr Approval:

CR

ISSUE BEFORE THE COUNCIL

Review current annexation policy established in January 2006.

STAFF RECOMMENDATION

Adopt staff's recommendation to continue the current policy with possible modifications, and initiate amendment to a key Comprehensive Plan Policy to remove ambiguity to ensure annexation is mandated when City services are required.

KEY FACTS AND INFORMATION SUMMARY

At a January 17, 2006 workshop, Council considered four annexation policy options and agreed that the City should have a "reactive" policy that established neutral position towards annexation. The City neither promotes nor is negative towards annexation. Applications are processed when they are received.

The Bull Mountain annexation/incorporation issue will have effects on local annexation matters for the foreseeable future and aggressive or overtly proactive annexation approaches could be counter-productive.

The City will be updating its Comprehensive Plan Policies pertaining to urbanization. Future discussion of annexation issues is recommended when this work is completed. However, a key Plan Policy (10.2.1) is so ambiguous that it has caused problems and is recommended for amendment in the near future.

OTHER ALTERNATIVES CONSIDERED

The same four policy alternatives were considered as were in January 2006. They are aggressive, proactive, reactive and inactive approaches. Due to the status of the Bull Mountain annexation issue, the reactive or neutral position is recommended over the aggressive and proactive options. The inactive approach is also not recommended. Council did not consider this a valid option in 2006. There is the potential for negative consequences if the City is not involved in planning and service decisions within its Urban Services Area.

CITY COUNCIL GOALS

Clarify City's Position on the Provision of Urban Services to Unincorporated Areas and in the Best Interests of the Citizens of the Tigard.

ATTACHMENT LIST

- Attachment 1: Staff's January 5, 2007 memorandum
Attachment 2: January 3, 2006 Staff memorandum to Mayor Dirksen and City Council regarding "City of Tigard Annexation Policy"
Attachment 3: January 17, 2006 City Council workshop minutes on "City of Tigard Annexation Policy"

FISCAL NOTES

Not Applicable



MEMORANDUM

TO: Mayor Craig Dirksen and Members of the City Council

FROM: Ron Bunch, Long Range Planning Manager

RE: January 5, 2007

DATE: City of Tigard Annexation Policy

INTRODUCTION

On January 17, 2006 Council held a work-session on annexation policy issues. At this meeting Council considered four policy alternatives: aggressive, proactive, reactive, or inactive approaches towards annexation. Council decided that the “reactive” approach was best.

Pursuant to this direction, the City has neither been negative towards annexation nor promoted it. Rather it has processed annexation applications as they have occurred. However, to lessen the burden on applicants, Council waived annexation fees for the period July 1, 2006 to July 1, 2008.

This workshop meeting is a follow-up to last year’s decision. Council has the opportunity to discuss whether it should affirm or change its annexation policy.

This memorandum presents policy alternatives in the same format as was done in January 2006. Council’s options are not limited to the four alternatives. It may decide that current circumstances require a hybrid approach -- combining elements of two or more options.

Staff’s January 17, 2006 memo to City Council provided an in-depth evaluation of the legal framework of annexation; City policy framework and a description of options. For Council’s reference, the memo is attached along with minutes of its January 17, 2006 meeting

BACKGROUND / DISCUSSION - 2007 ANNEXATION POLICY

Policy Alternatives Previously Considered

At its January 2006 discussion, Council considered the following four annexation policy alternatives.

Aggressive: Develop a strategic plan to annex all of the City's Urban Service Area including Planning Areas 63 and 64.

This alternative called for developing a strategic plan that mapped out annexation of all of Tigard's Urban Service Area. It would have aggressively invited property owners to participate and drawn annexation boundaries to include lands necessary to achieve the plan's goals. This would have included using cherry stem annexations along key roads to annex non-contiguous parcels. Also involuntary annexation would have been used for all parcels that would not participate when invited. This strategy would also have sought annexation of unincorporated islands within the City.

Proactive: Actively seek property owners who wish to annex.

This option would have actively invited property owners to annex to the City. It would have also involved the use of involuntary annexation, when permitted by state law, for all parcels whose owners declined to participate in an annexation action. Involuntary annexation would also have been used to annex unincorporated islands inside the City.

Reactive: Respond to property owner or elector interest.

As stated above, this is the City's current practice. The City responds to requests for annexation, and observes its policy that if development needs City services, then annexation must occur or a waiver of remonstrance must be signed and filed with Washington County.

Inactive: No further annexation of Tigard's Urban Service Area.

This alternative would have halted the City's annexation of territory and no City services would have been extended beyond the City limits. Other service providers would have had responsibility to serve lands within Tigard's Urban Service Area.

Annexation Policy Options for 2007

The incidents preceding the Bull Mountain incorporation ballot measure and its subsequent failure were the most significant annexation events in 2006. This issue and its various effects will color the annexation discussion for some time to come. For example, the Bull Mountain episode resulted in termination of the City / County Urban Services Intergovernmental Agreement (USIGA) whereby Washington County is now responsible for providing development review and building inspection services in the Bull Mountain Urban Services Area.

However, since there is not an incorporated city in the area, the prospect for annexation has not changed. Simply put, if new or existing development needs City services it must annex to the City. Furthermore, the City's Urban Planning Area Agreement does not prevent these or other lands from annexing. It still states that the City and County will be supportive of annexation of the area.

The controversy brought about by the Bull Mountain Incorporation issue seems to counter either an aggressive or an overtly proactive annexation policy. Also, it is staff's opinion that the City's Comprehensive Planning effort needs to address policy issues related to the urban services and urban planning areas before a major policy change is considered. Staff recommends that additional discussion of annexation policy occur when updated Comprehensive Plan Urbanization goals, policies and action measures are brought forward. In other words, an ongoing discussion of annexation issues and policies is needed as events occur and circumstances change.

RECOMMENDATIONS

Recommendation 1

Staff recommends Council's current policy of reacting to annexation requests when they occur be continued for another 12 months along with continuing the waiver of annexation fees until 7-01-08. Council may wish to add on some proactive elements such as an incentive of phasing in, over a period of five years, the added amount of City property taxes associated with annexation. If wished, staff will further investigate this and other proactive alternatives.

Recommendation 2

Staff also recommends that Council amend Comprehensive Plan Policy 10.2.1. pertaining to annexation and City services. The policy has caused problems because:

- It is not explicit regarding the obligation of property owners to annex in order to receive City services. Staff's opinion is that the policy can be interpreted that an application for annexation is all that is needed to get City services;
- Legal precedent does not allow a city to condition annexation on the receipt of another entity's services. For example, the City cannot require annexation if sewer service is provided by Clean Water Services, and
- There is uncertainty whether waivers of remonstrance to annex can actually be enforced.

Staff also recommends some minor edits to further clarify the intent of the policy.

Therefore the policy is proposed to be amended as follows. **Bold** indicates new language and ~~Strike through~~ indicates language to be deleted.

Policy 10.2.1

*The City shall not approve the extension of City ~~or Unified Sewerage Agency lines~~ **services** except:*

- a) Where applications for annexation for those properties have been ~~submitted to the~~ **approved by the City**; or*
- b) ~~Where a non-remonstrance agreement to annex those properties has been signed and recorded with Washington County and submitted to the City; or~~*
- c) b) In circumstances where applicable state ~~or~~ **and** county health ~~agency~~ **agencies** ~~has~~ **have** declared a potential or imminent health hazard.*

In the future, there may be more recommendations for policy changes. These will be forthcoming as the work progresses on the Comprehensive Plan.

Attachments:

January 3, 2006 Staff memorandum to Mayor Dirksen and City Council regarding "City of Tigard Annexation Policy"

January 17, 2006 City Council workshop minutes on "City of Tigard Annexation Policy"

File: Annex memo1-16-07 final doc

MEMORANDUM

CITY OF TIGARD

TO: Mayor Dirksen and City Council

FROM: Tom Coffee, Community Development Director
Gary Pagenstecher, Associate Planner

DATE: January 3, 2006

SUBJECT: City Of Tigard Annexation Policy

INTRODUCTION

The purpose of this memo is to address the City's limited annexation policy and to propose options for the Council to consider to facilitate implementation of the City's urbanization goal. This paper looks briefly at the legal framework of annexation and summarizes the City's current policies and practices. A discussion of the issues follows with options proposed for how the City might proceed.

As the City urbanizes and expands into its Urban Services Area, annexation is used to incorporate territory into the City to ensure the efficient provision of municipal services and to incorporate urbanizing lands into the City's political and civic life. The City's annexation policy is included within the Urbanization goal of its Comprehensive Plan, which is mandated by State Statute. The Urbanization goal provides a framework within which all development activities are coordinated. The goal attempts to integrate and balance available land resources in terms of the needs expressed by other goals, namely, Housing, Economy, Public Facilities and Services, Natural Features and Open Space, and Transportation.

LEGAL FRAMEWORK

State Law (ORS 195 and 222)

ORS195 provides for annexation plans for large unincorporated areas which must be approved by a majority of the voters in the areas to be annexed and the city annexing the area. ORS 222 provides for annexations without a vote through consent agreements from those within the area to be annexed when contiguous to a city boundary.

Annexations without a vote, include: a) island annexation when territory is surrounded by the corporate boundaries of the city; consent of the affected property owners is not required; b) consents of all of the owners of land in the territory and not less than 50 percent of the electors; c) consents of owners of the majority of the territory within the area to be annexed and a majority

of electors (double majority); d) consents of more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory, representing more than half of the assessed value (triple majority).

2005 Legislative Changes to State Law

The 2005 Legislature made a number of changes to State Annexation Law in response to property owner concern over the authority of cities to annex territory. Annexation by Annexation Plans now clearly require a majority vote of both residents of the city and the residents within the territory to be annexed. The so called "Nike" bill only applies to specific industrial properties that meet specific criteria (does not affect City of Tigard where the unannexed portions of the city contain only land designated residential). In addition, the legislature took away a city's ability to veto the incorporation of territory within three miles of city boundaries.

Written Consents to Annex

The procedures for annexing without a vote include obtaining: a) written consent to annex by a willing property owner, which is non transferable and valid for one year; or, b) written consent to annex by a willing property owner by contract in exchange for provision of services, which is binding on future property owners and good for a year (unless separate agreement waives the year limitation).

When property owners contiguous to the city boundary apply for annexations, simple consents are sufficient. When property owners apply for development of property within the Urban Services Area, but which is not contiguous to the current city boundary, contracts and waivers are used to ensure annexation at some point in the future when the city boundary becomes contiguous (see attached 12-13-05 Ramis/Crew Annexation Consents Memo). These consents are made to fulfill the intent of the City's urbanization goal. The attached letter from Legislative Counsel to Representative Jerry Krummel, dated December 15, 2005, points out that these written consents are a legitimate form of annexation (paragraph 2, page 3).

EXISTING CITY POLICY

The City's policies on annexation are found in the Comprehensive Plan and are implemented through the Tigard Development Code and ordinances approving several Intergovernmental Agreements. These IGAs are primarily between the City and Washington County, but also include Metro and a number of area service provider districts.

Comprehensive Plan

Chapter 10 of the Comprehensive Plan (attached) includes the findings, policies and implementation strategies that address a variety of topics related to urbanization, including annexation. The annexation policies describe the process which satisfies the need for efficient, orderly and logical urbanization within the geographical limits of Tigard's Urban Service Area (attached map). These policies, summarized below, include 1) the conditions for annexation, 2) extension of services outside the City limits, and 3) annexation of land outside of the urban growth boundary. The Comprehensive Plan was adopted by ordinance and is the law of the City just as other laws of the municipal code.

In Policy 10.1, prior to annexation, the city must demonstrate that there are adequate water, sewer, drainage, streets, police, and fire protection services to serve the territory to be annexed

and that the annexation will not significantly reduce the level of services available to developed and undeveloped land within the city of Tigard. In addition, the City must find that the annexation eliminates an island or will not create an irregular boundary, the police department has commented, the land is located within the Tigard urban planning area and is contiguous to the city boundary, and the annexation can be accommodated by the listed services.

In Policy 10.2, the city shall not approve the extension of city or CWS sewer lines except: a) where applications for annexation for those properties have been submitted to the city; b) where a nonremonstrance agreement to annex those properties has been signed and recorded with Washington County and submitted to the city; or c) where the applicable state or county health agency has declared that there is a potential or imminent health hazard.

In Policy 10.3, the city shall consider annexation requests outside the Tigard urban planning area and within the urban growth boundary consistent with policies 10.1 and 10.2 and amendment of the agreement between the city and the county. The city shall discourage expansion of the Tigard urban planning area in a manner which would result in an irregular planning area and inefficient provision of public facilities and services.

Tigard Development Code

The TDC implements the policies in the Comprehensive Plan, stipulating a Type IV approval process and approval criteria that a) require services and facilities are available to the area with sufficient capacity to provide service for the proposed annexation area, and b) that the applicable comprehensive plan policies and implementing ordinance provisions have been satisfied.

Intergovernmental Agreements

A series of IGAs from the mid-eighties between the City and Washington County have set the management terms for the unincorporated territory within Tigard's UGB regarding provision of urban services and the transfer of service provision upon annexation. The most recent of these agreements, the Urban Planning Area Agreement (7/8/04), identifies the Tigard Urban Service Area (TUSA) and a process for coordinating comprehensive planning and development. Section III.C.1 *Annexations*, states:

The county and city recognize the City as the ultimate service provider of the urban services specified in the Tigard Urban Services Agreement. The County also recognizes the City as the ultimate local governance provider to all the territory in the TUSA, including unincorporated properties. So that all properties within the TUSA will be served by the City, the County and City will be supportive of annexations to the City.

Section III.C.3 states:

... Annexations to the City ... shall not be limited to an annexation plan and the City and County recognize the right of the City and property owners to annex properties using the other provisions provided by the Oregon Revised Statutes.

Administrative Policy

Currently, the City does not initiate annexations, but processes requests for annexation by developers and property owners pursuant to the provisions in the Tigard Development Code.

However, the City's administrative policy includes sending a letter solicitation to owners in the vicinity of a proposed annexation to join in the annexation. The intent of the solicitation is to create a uniform boundary by including adjacent properties within the proposal to create a more efficient urban services area boundary. The City encourages participation by offering to waive the annexation application fee, which is currently \$2,302. The City also advises that if an owner chooses not to participate, but a majority of the surrounding neighbors do choose to do so, their property may involuntarily be annexed by double or triple majority. Involuntary annexation has rarely, if ever, occurred.

ANNEXATION POLICY OPTIONS

The City does not have an annexation plan to guide the timing and location of annexation of Tigard's Urban Service Area as called for in the City's Urban Service Agreement (11-26-02). The Comprehensive Plan policies provide for, but do not facilitate annexation. Therefore, the City is currently reactive to annexation proposals by developers and landowners. As a result the City is unable to predictably assume its role as the urban service provider within its Urban Service Area.

The following four options lay out a graduated approach to annexation for the Council to consider. The options range from the City annexing all of its Urban Service Area to declaring that it will not annex any more territory beyond specified limits (see attached Prospective Annexation Map). Underlying these options is the legal justification cited above for the City to annex all of its Urban Service Area.

Aggressive: Develop a strategic plan to annex all of the City's Urban Service Area including Planning Areas 63 and 64.

Develop a strategic plan that maps out annexation of all of Tigard's Urban Service Area. As now, rely on consents to annex and waivers of remonstrance for proposed developments. However, be aggressive with the invitations to participate by drawing the rational boundary to include parcels necessary to achieve the annexation goal. If necessary, use cherry stem annexations along key roads to include non contiguous properties. Use involuntary annexation, as allowed, for all parcels that do not participate on invitation. Annex all seven unincorporated islands within the City boundary comprised of 74 lots and totaling 42.4 acres (see attached December 2005 Issue of League of Oregon Cities *Local Focus*, pages 27/28).

Proactive: Actively seek property owners who wish to annex.

As now, rely on consents to annex and waivers of remonstrance for proposed developments. However, be proactive with the invitations to participate by drawing the rational service boundary to include a larger territory. Use involuntary annexation, as allowed, for all parcels that do not participate on invitation. Annex all islands.

Reactive: Respond to property owner or elector interest.

As now, rely on consents to annex and waivers of remonstrance for proposed developments. Continue invitations to participate and include those consenting to annexation. To the extent annexation occurs, urban services would be provided to those seeking them. Only approximately 212 acres have been added since 2000 using the current policy.

Inactive: No further annexation of Tigard's Urban Service Area.

The area would continue to be served by existing service provider districts. The City would concede the Urban Service Area to other interests and revoke its urban service agreements with the County. The City could focus on developing a sustainable community with an enhanced quality of life within its current boundaries.

APPENDICIES

December 15, 2005, Letter from Legislative Counsel to Representative Jerry Krummel

Chapter 10, Urbanization, City of Tigard Comprehensive Plan

December 2005, Local Focus (LOC), Island Annexations Lawful Under Equal Protection Clause

Exhibits: maps showing Annexation History and Prospective Annexation policy options

Agenda Item No. 3.1
 For Agenda of 2-28-06



Tigard City Council Meeting Minutes

Date: January 17, 2006
 Time: 6:36 p.m.
 Place: Tigard City Hall, 13125 SW Hall Boulevard
 Tigard, Oregon
 Attending: Mayor Craig Dirksen Presiding
 Councilor Sally Harding
 Councilor Sydney Sherwood
 Councilor Nick Wilson
 Councilor Tom Woodruff

Agenda Item	Discussion & Comments	Action Items (follow up)
Workshop Meeting	<p>1.1 Mayor Dirksen called the City Council and the Local Contract Review Board to Order at 6:36 p.m.</p> <p>1.2 Council Present: Mayor Dirksen, Councilors Harding, Sherwood, Wilson, and Woodruff.</p> <p>1.3 Pledge of Allegiance</p> <p>1.4 Council Communications & Liaison Reports:</p> <p>Councilor Sherwood announced that some public facilities projects will be funded by the Community Development Block Grant program. Requests for funding from this program far exceeded the amount available. She advised that the Garrett Street sidewalk will be funded.</p> <p>1.5 Call to Council and Staff for Non-Agenda Items</p> <p>An Executive Session was held at the end of the meeting.</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<ul style="list-style-type: none"> • A review of TriMet's proposed station design option. • A review of the recommendation of the design as originally proposed by the Downtown Task Force. • TriMet now scaling back to a lower-cost prefabricated station structure to realign estimated costs and budget. As time goes by, costs escalate, which impacts what can be done with the available funding. • Review of aesthetics and available budget. • Review of commuter rail passenger comfort: benches, windscreens for protection from weather, and length of wait between trains. • TriMet's shelter design is basically a "cover." • Disappointment expressed with the reduction from the original design proposed by the Downtown Task Force. • The station is the initial project to improve the downtown, so it is important to set the tone and demonstrate the types of improvements desired. • Discussed projected commuter rail ridership. • Viewpoint expressed that the shelter design will not keep people from riding the commuter rail; keep the station functional and fund less costly aesthetic improvements. • Of the \$150,000 currently allocated for the downtown, \$75,000 has been earmarked by the City for the station. 	<p>could be expanded later. Tigard contributions to station funding will need to be available the latter part of 2007.</p>
4. Annexation Policy	<p>The following staff members participated in this discussion with the City Council: Interim Community Development Director Coffee, Planning Manager Bewersdorff, and Associate Planner Pagenstecher.</p> <p>Discussion highlights included the following:</p> <ul style="list-style-type: none"> • Overview of annexation background with previous stance by Washington County that cities should provide urban services and that the City of Tigard would expand into its urban service area. • Factors affecting annexation: 	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<ul style="list-style-type: none"> ○ Comprehensive Plan ○ Intergovernmental agreements with Washington County ○ State law ○ City of Tigard Development Code ○ Consents to annexation ○ Current administrative policy ○ Bull Mountain annexation vote in 2004. <ul style="list-style-type: none"> • Referenced two letters received from State Representative Jerry Krummel; evaluation is needed. • Reviewed options of City Council (see January 3, 2006 memorandum from Interim Community Development Director Coffee and Associate Planner Pagenstecher regarding City of Tigard annexation policy). Options were for the City of Tigard to be 1) aggressive, 2) proactive, 3) reactive, or 4) inactive. • Areas in unincorporated county that are already developed have no incentives to annex. • The City of Tigard currently annexes in the “reactive” mode; if the City continues this policy, it is unlikely the City’s boundaries will ever extend to the urban services boundary. • If the City chooses a proactive policy, State law allows the City to annex islands. Initiating island annexations has not been the practice of the City. • An aggressive annexation policy, including cherry-stem annexations is not politically palatable. • A suggestion was made that the City consider its boundaries to be essentially set. • The Comprehensive Plan update is now underway. Boundaries will be a consideration. • An observation was made that it is a struggle to quantify the alternatives for annexation options. If a new City is formed on Bull Mountain – a real City that is self-sustaining with services such as a library and parks – there would be less concern. Also unknown is whether the new City would extend to the urban growth boundary. • There are positives for each of the annexation policy options. In the long-term view, the question is which is the correct decision? There was concern expressed that development might 	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>occur that will prove to be detrimental.</p> <ul style="list-style-type: none"> • There was no support expressed for cherry-stem annexations (aggressive policy) in order to facilitate potential annexation of areas 63 and 64. • The proactive annexation policy appears to be beneficial in that it would bring undeveloped parcels into the City. • A decision should be made about the City's planning area relating to the Comprehensive Plan update. It was suggested that the City plan for undeveloped areas so if these areas come into the City, the planning would be done. • Density requirements in the urban growth boundary would be no different whether the property is in or out of the City. If the property was located in the City, density could be transferred to the downtown or the Washington Square areas. • There was mention of a policy decision that would be needed on property owned outside the City (Cache Creek property). Options would include: 1) keep the area as an extra-territorial park, 2) sell the property, 3) give the property to another city. • It was noted that the Tigard constituency does not appear to support aggressive or even proactive annexations. Tigard citizens appear to be more in favor with what the City is doing now, which is a reactive policy (wait for parcels to ask to be annexed). • Interim Community Development Director Coffee suggested a systematic review of the City's boundary. • Mayor Dirksen said he supports double or triple majority annexations. • Councilor Woodruff supported the democratic process of annexing those properties where property owners have indicated they want to come into the City. • Councilor Harding suggested the City take a time out and let others explore their options. If a property owner asks to be annexed and if the property is contiguous to the current City boundaries, then she would support the annexation request. 	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<ul style="list-style-type: none"> • The Comprehensive Plan, Washington County intergovernmental agreements, and the Bull Mountain Community Plan all indicate that the City of Tigard should be the ultimate service provider for the urban services area. • There was a suggestion that it might be time to review the Washington County intergovernmental agreements. In response to the discussion, City Manager Prosser advised the funds received by the City from the County cover the costs of the services provided by the City as outlined in the intergovernmental agreements. • It was suggested that the City Council would know more in about a year, once it is known whether a new city will be formed on Bull Mountain. • Councilor Wilson pointed out that the vision established 30 years ago regarding urban services does not appear to have any possibility of working. • Interim Community Development Director Coffee suggested that Goal 14 will be addressed during the Comprehensive Plan review; the “mechanisms” have not happened. Tigard’s area of interest may be redefined. The current practice for annexation will continue. • The City Council talked of annexation incentives. There was no support at this time to offer a phase-in of taxes; however, the City Council might consider waiving the fee for annexation. 	
	<p>Meeting recessed: 9:26 p.m. Meeting reconvened: 9:35 p.m.</p>	
5. Mayor and Council Budget	<p>Assistant to the City Manager Newton reviewed with the City Council the preliminary Mayor and Council FY 06-07 Budget request as prepared by Administration Department staff.</p> <p>There was discussion about the majority of the League of Oregon Cities dues being shown as an expenditure in the Council’s budget.</p>	<p>Staff will prepare a cost allocation model for League of Oregon Cities dues.</p>

Agenda Item #
Meeting Date

3.
January 16, 2007

COUNCIL AGENDA ITEM SUMMARY
City Of Tigard, Oregon

Issue/Agenda Title Follow-Up Presentation to Council by the Chief on Proposed Jaywalking Ordinance.

Prepared By: Chief Bill Dickinson Dept Head Approval: WMD ^{b. f. m.} City Mgr Approval: cl

ISSUE BEFORE THE COUNCIL

A new jaywalking ordinance was offered for Council consideration at the November 28, 2006, City Council meeting. Council directed staff to revisit several issues in the proposed ordinance. Staff is returning with a revised version for Council consideration and discussion.

STAFF RECOMMENDATION

Staff recommends that Council consider placing this ordinance on a future Council business meeting agenda.

KEY FACTS AND INFORMATION SUMMARY

The discussion with Council will be to review the recommendations and amendments stemming from Council comments during the November 28th, 2006 workshop meeting.

Staff reduced the distance for compulsory use of a crosswalk and established a clearly defined rule for citizens to follow when not within 100 feet of a crosswalk. The purpose of the ordinance is to enhance safety through the reduction of car vs. pedestrian accidents.

OTHER ALTERNATIVES CONSIDERED

Redraft the proposed ordinance subject to further Council revisions.
Do not consider passing a Jaywalking Ordinance.

CITY COUNCIL GOALS

None.

ATTACHMENT LIST

Attachment A: Draft Jaywalking Ordinance.
Attachment B: ORS 801.220

FISCAL NOTES

There is no cost associated with this presentation.

DRAFT

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 07-_____

AN ORDINANCE AMENDING THE TIGARD MUNICIPAL CODE BY ADDING A NEW SECTION 10.32.235 REGARDING USE OF CROSSWALKS (JAYWALKING)

WHEREAS, Tigard has experienced collisions involving pedestrians and vehicles as well as injuries resulting from those collisions; and

WHEREAS, the City Council finds that guidelines for pedestrians crossing public roadways are necessary for increased public safety and to reduce the number of collisions involving pedestrians and vehicles;

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Tigard Municipal Code is amended by adding a new Section 10.32.235 to read as follows:

10.32.235 USE OF CROSSWALKS (JAYWALKING)

1. No pedestrian may cross the street or roadway other than within a crosswalk if they are within 100 feet of a crosswalk.
2. A Pedestrian shall cross a street or roadway at a right angle unless crossing within a crosswalk.
3. For purposes of this section, "crosswalk" has the same meaning as found in Oregon Revised Statutes.
4. A violation of any provision of this section is a Class D violation notwithstanding any other provision in this chapter.

SECTION 2: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2007.

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2007.

Craig Dirksen, Mayor

Approved as to form:

City Attorney

Date

ORS 801.220

801.220 "Crosswalk." "Crosswalk" means any portion of a roadway at an intersection or elsewhere that is distinctly indicated for pedestrian crossing by lines or other markings on the surface of the roadway that conform in design to the standards established for crosswalks under ORS 810.200. Whenever marked crosswalks have been indicated, such crosswalks and no other shall be deemed lawful across such roadway at that intersection. Where no marked crosswalk exists, a crosswalk is that portion of the roadway described in the following:

(1) Where sidewalks, shoulders or a combination thereof exists, a crosswalk is the portion of a roadway at an intersection, not more than 20 feet in width as measured from the prolongation of the lateral line of the roadway toward the prolongation of the adjacent property line, that is included within:

(a) The connections of the lateral lines of the sidewalks, shoulders or a combination thereof on opposite sides of the street or highway measured from the curbs or, in the absence of curbs, from the edges of the traveled roadway; or

(b) The prolongation of the lateral lines of a sidewalk, shoulder or both, to the sidewalk or shoulder on the opposite side of the street, if the prolongation would meet such sidewalk or shoulder.

(2) If there is neither sidewalk nor shoulder, a crosswalk is the portion of the roadway at an intersection, measuring not less than six feet in width, that would be included within the prolongation of the lateral lines of the sidewalk, shoulder or both on the opposite side of the street or highway if there were a sidewalk. [1983 c.338 §36]

Agenda Item #
Meeting Date

4
January 16, 2007

COUNCIL AGENDA ITEM SUMMARY
City Of Tigard, Oregon

Issue/Agenda Title Presentation to Council by the Chief on a Proposed Graffiti Ordinance.

Prepared By: Chief Bill Dickinson Dept Head Approval: lmo City Mgr Approval: CP

ISSUE BEFORE THE COUNCIL

Recent citizen complaints about the increased incidence of graffiti in Tigard prompted Council to direct staff to bring the issue and possible solution forward for discussion.

STAFF RECOMMENDATION

Staff recommends that Council review statistical and anecdotal information regarding the graffiti problem in Tigard. Staff will present two recommended ordinances employed by neighboring jurisdictions for Council consideration. Both are effective ordinances; however, staff leans towards recommending a hybrid model of the two.

KEY FACTS AND INFORMATION SUMMARY

The discussion with Council will determine whether or not to initiate a new ordinance to give police a tool to deal with the negative impact of graffiti crimes.

Information will be presented regarding the increased rates of graffiti in Tigard, including the incidence of gang graffiti, as well as an increase in hate crime graffiti that has been associated with some of our recent incidents.

The proposed ordinance is intended to provide a procedure for removal of graffiti from buildings, walls and other structures in order to reduce social and economic deterioration within the City and to promote public safety and health.

Material presented for review includes the City of Portland's Chapter 14B.80 (Graffiti Nuisance Property) and Tualatin's Municipal Code, Chapter 6-10 governing graffiti. These two examples offer both soft and hard line approaches toward addressing the removal of graffiti from private property. Although both models can be effective, staff recommends a hybrid model which first encourages compliance but ultimately gives us an effective tool for gaining compliance by property owners.

OTHER ALTERNATIVES CONSIDERED

- Adopt City of Portland Ordinance
- Adopt City of Tualatin Ordinance.
- Take no action.

CITY COUNCIL GOALS

None.

ATTACHMENT LIST

Attachment A: Copy of language used in the City of Portland Municipal Code regarding graffiti.

Attachment B: Copy of Chapter 6-10 of the Tualatin Municipal Code..

Attachment C: Proposed hybrid ordinance.

FISCAL NOTES

No cost associated with this presentation.

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Chapter 14B.80 Graffiti Nuisance Property

14B.80.010 Declaration of Purpose.

A. It is the purpose and intent of this ordinance to provide for a procedure for removal of graffiti from buildings, walls and other structures in order to reduce social deterioration within the City and to promote public safety and health.

B. The Manager may adopt procedures, forms, and written policies for administering and implementing the provisions of this Chapter.

14B.80.020 Graffiti Nuisance Property.

A. Any property, building or structure within the City of Portland which becomes a graffiti nuisance property is in violation of this Chapter and is subject to its remedies.

B. Any person who permits property under their control to become a graffiti nuisance property shall be in violation of this Chapter and subject to its remedies.

14B.80.030 Definitions.

For the purposes of this Chapter, the following definitions shall apply:

A. Graffiti: Any unauthorized markings of paint, ink, chalk, dye or other similar substance which is visible from premises open to the public, and that have been placed upon any real or personal property such as buildings, fences, structures, or the unauthorized etching or scratching of such described surfaces where the markings are visible from premises open to the public, such as public rights of way or other publicly owned property.

B. Manager: The Graffiti Abatement Manager is the City official, or designated representative, who is responsible for the administration of the Graffiti Nuisance Abatement program under this Chapter. In accordance with adopted procedures, the Manager may appoint such officers, employees and agents as shall be authorized and necessary to enforce the provisions of this Chapter.

C. Graffiti Nuisance Property: Property upon which graffiti has been placed and such graffiti has been permitted to remain for more than ten (10) days after the property owner of record has been issued written notification pursuant to Section 14B.80.040 B.

D. Occupant: Any person or sublessee, successor or assignee who has control over property.

E. Owner: Any person, agent, firm or corporation having a legal or equitable interest in a property and includes but is not limited to:

1. A mortgagor in possession in whom is vested all or part of the legal title to the property or all or part of the beneficial ownership and a right to present use and enjoyment of the premises; or

2. An occupant who has control over the property/premises.

F. Permit: Knowingly to suffer, allow, or acquiesce by any failure, refusal or neglect to abate.

G. Property: Any real or personal property and that which is affixed incidental or appurtenant to real property but not limited to any premises, house, building, fence, structure or any separate part thereof, whether permanent or not.

H. Unauthorized: Without the consent of the owner or the occupant.

14B.80.040 Procedures.

(Amended by Ordinance No. 178352, effective May 28, 2004.)

A. Required Graffiti Removal. The owner or occupant of any property in the City shall remove any graffiti from such property within ten (10) days of the graffiti's appearance.

B. Notification

1. Whenever the Manager determines that graffiti exists on any structure in the City of Portland, the Manager may issue an abatement notice.
2. The Manager shall cause the notice to be served upon the property owner and any occupant. The owner or occupant shall have ten (10) days after the date of service of the notice in which to remove the graffiti. The Graffiti Abatement Manager shall have the sole discretion to grant the property owner the option of giving the City written permission to enter on the property and remove the graffiti.
3. Service shall be accomplished by addressing the notice to the owner and occupant and sending it by personal service, registered mail or certified mail. Service on the occupant may also be accomplished by posting the notice in a clearly visible location on the subject property.
4. If graffiti is not removed or written permission is not given to the City to remove the graffiti, the costs of removal may be assessed to the owner and will become a lien on the affected property. For each instance of graffiti abatement, the Manager shall keep an accurate account of all expenses incurred, including an overhead charge of 25 percent for program administration and a civil penalty of \$250 for each abatement. In the event that the measures taken are deemed by the Code Hearings Officer to be appropriate, the cost for the same may be made as an assessment lien upon the property.

C. Appeal

1. Within ten (10) days of the receipt of the notice, the property owner or occupant may appeal the notice from the Manager to the Code Hearings Officer of the City of Portland, as set out in Chapter 22.10 of this Code.
2. Upon receipt of the appeal request, the Code Hearings Officer shall set the matter for hearing within ten (10) business days. If the Code Hearings Officer finds the property to be a Graffiti Nuisance Property, and the owner or responsible party has been given notice in accordance with Subsection B. above, the Code Hearings Officer shall specify when and under what conditions the graffiti shall be abated.

D. Removal of Graffiti

1. The Manager may summarily abate any graffiti on any utility poles and cabinets, on exterior walls and fences immediately abutting public streets or property, or on any public property,

including but not limited to traffic signs and lights.

2. Whenever the Manager has reasonable cause to believe that there exists upon any building or structure any graffiti requiring abatement under this Chapter, the Manager may enter upon the graffiti nuisance property at all reasonable times to perform any duty imposed on the Manager under this Chapter, and to enforce the provisions of this Chapter. Upon the failure to comply with the notice of abatement by the designated compliance date, and if the property owner or occupant has not appealed the notice as provided under Subsection C., the following steps may be taken if the graffiti nuisance property is plainly enclosed to create privacy and prevent access by unauthorized persons:

a. If the graffiti nuisance property is occupied, the Manager shall first present proper credentials and demand entry to cause the graffiti to be abated. If entry is refused, the Manager may attempt to secure entry by any legal means.

b. If the graffiti nuisance property is unoccupied, the Manager shall first make a reasonable attempt to locate the owner or occupant and demand entry. Such demand may be included in the initial notice sent to the owner or occupant under Subsection B. above. If entry is refused, the Manager may attempt to secure entry by any legal means.

(1) If the Manager has first obtained an administrative search warrant to secure entry onto the graffiti nuisance property to abate the graffiti, no owner or occupant shall refuse, fail or neglect, after proper request, to promptly permit entry by the Manager to abate the graffiti.

(2) It shall be unlawful for any owner or occupant to refuse to permit entry by the Manager to abate graffiti under this Chapter after an administrative search warrant has been obtained. Any violation of this Subsection is punishable upon conviction by a fine of not more than \$500 and a jail sentence of up to six months.

c. If the graffiti is not removed and abated, or cause shown, as specified above, the Manager may cause the graffiti to be removed and abated upon issuance of an Administrative Search warrant.

(1) Graffiti Abatement. If the graffiti is not removed and abated, or cause shown, as specified above, the Manager may cause the graffiti to be removed and abated.

(2) Warrants. The Manager may request any Circuit Court judge to issue a graffiti abatement warrant whenever entry onto private property is necessary to remove and abate any graffiti.

(3) Grounds for Issuance of Graffiti Abatement Warrants; Affidavit.

(a) Affidavit. A graffiti abatement warrant shall be issued only upon cause, supported by affidavit, particularly describing: the applicant's status in applying for the warrant; the ordinance or regulation requiring or authorizing the removal and abatement of the graffiti; the building or property to be entered; the basis upon which cause exists to remove or abate the graffiti, and a statement of the graffiti to be removed or abated.

(b) Cause. Cause shall be deemed to exist if there is reasonable belief that a

graffiti violation exists, as defined in this Chapter, with respect to the designated property, and that the property owner has been given notice and an opportunity to abate the graffiti, and has not responded in a timely fashion.

(4) Procedure for Issuance of a Graffiti Abatement Warrant.

(a) Examination. Before issuing a graffiti abatement warrant, the judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.

(b) Issuance. If the judge is satisfied that cause for the removal and abatement of any graffiti nuisance exists and that the other requirements for granting the application are satisfied, the judge shall issue the graffiti abatement warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered, and a statement of the general types and estimated quantity of the items to be removed or conditions abated. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.

(c) Police Assistance. In issuing a graffiti abatement warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist the representative of the bureau in any way necessary to enter the property and, remove and abate the graffiti.

(5) Execution of Graffiti Abatement Warrants.

(a) Occupied Property. Except as provided in 14B.80.040 D.2., in executing a graffiti abatement warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request. A copy of the warrant shall be left with the occupant or the person in possession.

(b) Unoccupied Property. In executing a graffiti abatement warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in 14B.80.040 D.2.c.(5)(a), but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the graffiti abatement warrant shall be conspicuously posted on the property.

(c) Return. A graffiti abatement warrant must be executed within 10 working days of its issue and returned to the judge by whom it was issued within 10 working days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

E. Graffiti Abatement Consent Forms.

- 1. The Manager shall develop consent forms allowing the Manager to enter onto property to abate the graffiti without prior notice from the Manager. The Manager shall make these consent forms available to the public.**
- 2. Property owners and occupants may request and sign consent forms for allowing graffiti abatement. The Graffiti Abatement Manager shall renew the consent forms at least biannually.**

Tualatin Municipal Code

6-10-010

Chapter 6-10

Graffiti

Sections:

6-10-010 Definitions.**6-10-020 Graffiti Prohibited.****6-10-030 Possession of Graffiti Implement Prohibited.****6-10-040 Other Violations.****6-10-050 Community Service.****6-10-060 Graffiti Removal; Notice and Procedures.****6-10-070 Emergency Clause.****6-10-010 Definitions.**

(1) "Abate" means to remove graffiti from the public view.

(2) "Aerosol paint container" means any aerosol container adapted or made for spraying paint.

(3) "Etching device" means a glass cutter, awl or any device capable of scratching or etching the surface of any structure or personal property.

(4) "Felt tip marker" means an indelible marker or similar implement with a tip which, at its broadest width, is greater than one-fourth inch.

(5) "Graffiti" means any inscription, word, figure, or design that is marked etched, scratched, drawn, or painted on any surface with paint, ink, chalk, dye or other similar substance, regardless of content, which is visible from premises open to the public, such as public rights of way or other publicly-owned property, and that has been placed upon any real or personal property, such as buildings, fences, and structures, without authorization from the owner or responsible party.

(6) "Graffiti implement" means an aerosol paint container, a felt tip marker, an etching device, or a graffiti stick.

(7) "Graffiti nuisance property" means a property upon which graffiti has been placed and such graffiti has been permitted to remain for more than seven days after the property owner of record or occupant has been issued written notification.

(8) "Graffiti stick" means a device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure, and upon application, leaving a mark at least one-fourth of an inch wide.

(9) "Manager" means the Tualatin City Manager or the manager's designee who is responsible for the administration of the graffiti nuisance abatement program under this chapter.

(10) "Occupant" means any person, tenant, sublessee, successor or assignee that has control over property.

(11) "Owner" means any person, agent, firm or corporation having a legal or equitable interest in a property and includes but not limited to a mortgagor in possession, an occupant, or a person, agent, firm or corporation that owns or exercises control over items of property, such as utility poles, drop boxes, postal collection boxes, and other types of containers.

(12) "Permit" means to knowingly allow, suffer, acquiesce by a failure, refusal or neglect to abate.

(13) "Premises open to the public" means all public spaces, including but not limited to streets, alleys, sidewalks, parks, rights of way and public open space, and private property onto which the public is regularly invited or permitted to enter for any purpose.

(14) "Property" means any real or personal property, including but not limited to items affixed or appurtenant to real property or premises, house, building, fence, or structure, and items of machinery, drop boxes, waste containers, utility poles and vaults, and post office collection boxes.

(15) "Responsible party" means an owner, an entity or person acting as an agent for an owner by agreement, that has authority over the property or is responsible for the property's maintenance or management. There may be more than one party responsible for a particular property.

(16) "Unauthorized" means without consent of the owner, occupant or responsible party.

[Ord. 1205-06, March 13, 2006]

6-10-020 Graffiti Prohibited.

(1) It is unlawful and a violation of this chapter for any person to place or put by any means, any drawing, inscription, figure, symbol, mark, or any type of commonly known graffiti on any public or private property without the consent of the owner of

Tualatin Municipal Code

the premises on which the property is located, or upon natural surfaces such as rocks, trees or any surface whatsoever. It is unlawful and a violation of this chapter for any person to solicit or command another person to apply graffiti or aid or abet another person in applying graffiti.

(2) A violation of subsection (1) of this section is a violation punishable by a maximum fine not to exceed three hundred sixty dollars. Each wall or object upon which graffiti is placed constitutes a separate violation. Each day on which a violation occurs or continues is a separate violation.

[Ord. 1205-06, March 13, 2006]

6-10-030 Possession of Graffiti Implement Prohibited.

(1) No person may possess, with the intent to unlawfully apply graffiti on any real or personal property of another, any graffiti implement.

(2) Unlawful possession of a graffiti implement is a violation of this chapter punishable by a maximum fine not to exceed ninety dollars. Each day on which a violation occurs is a separate violation.

(3) In addition to issuing a citation, a graffiti implement used or possessed in violation of this section may be immediately seized and impounded by the police department. The court, upon disposition of the issued citation, shall determine whether the instrument shall be returned to the defendant or deemed to be contraband subject to destruction under Oregon law.

[Ord. 1205-06, March 13, 2006]

6-10-040 Other Violations.

(1) Any property located in the City of Tualatin that becomes a graffiti nuisance property is in violation of this chapter and is subject to its remedies.

(2) Every responsible party who permits a property to become a graffiti nuisance property is in violation of this chapter and subject to its remedies.

[Ord. 1205-06, March 13, 2006]

6-10-050 Community Service.

In lieu of a portion of any fine that may be imposed under TMC 6-10-020 and 6-10-030, the court shall order the violator to perform community service, unless the court finds that special circum-

stances exist that would preclude such service. Reasonable effort shall be made to require the violator to perform a type of community service that is reasonably expected to have the most rehabilitative effect on the person, preferably community service that constitutes in significant part the removal of graffiti.

[Ord. 1205-06, March 13, 2006]

6-10-060 Graffiti Removal; Notice and Procedures.

(1) The owner or occupant of any property within the City of Tualatin shall remove any graffiti from that property within seven days of the graffiti's appearance.

(2) Whenever the Manager determines that graffiti exists on any property in the City, the Manager may issue an abatement notice. The owner or occupant shall have seven days after the date of service of the notice to remove the graffiti.

(3) The notice shall be served by addressing the notice to the owner and occupant and delivering it by personal service or by mailing it as certified mail. Service may also be accomplished by posting the notice in a clearly visible location on the subject property.

(4) If the person who was served the notice is unable to remove, or cause to remove, the graffiti within the seven-day period due to a hardship, he or she may apply to the Manager for an extension of time in which to remove the graffiti. For purposes of this subsection, "hardship" includes but is not limited to serious illness or disability, extremely inclement weather that temporarily prevents removal of the graffiti, or other extraordinary circumstance.

(5) If graffiti is not removed within seven days after serving notice on the owner and occupant, the Manager may cause a citation to be issued to the owner or occupant or both requiring the person to appear in Tualatin Municipal Court.

(6) Failure to remove graffiti as required by this section is a violation punishable by a fine of up to one hundred fifty dollars. Each day the graffiti remains after the notice is sent constitutes a separate offense.

Tualatin Municipal Code

6-10-070

(7) The City Manager may adopt rules and procedures to implement this chapter.

[Ord. 1205-06, March 13, 2006]

6-10-070 Emergency Clause. [Ord. 1205-06 §7, March 13, 2006]

Graffiti Ordinance

Definitions

- 1) "Abate" means to remove graffiti from the public view.
- 2) "Graffiti" means any inscription, word, figure, or design that is marked, etched, scratched, drawn or painted on any surface with paint, ink, chalk, dye, other similar substance or placement of stickers or appliques, regardless of content, which is visible from premises open to the public, such as public right of ways or other publicly-owned property, and that has been placed upon any real or personal property, such as buildings, fences, and structures, without authorization from the owner or responsible party.
- 3) "Graffiti nuisance property" means a property upon which graffiti has been placed and such graffiti has been permitted to remain for more than 14 days after the property owner of record or occupant has been issued written notification.
- 4) "Manager" means the Tigard City Manager or the manager's designee who is responsible for the administration of the graffiti nuisance abatement program under this chapter.
- 5) "Occupant" means any person, tenant, sublessee, successor or assignee that has control over property.
- 6) "Owner" means any person, agent, firm or corporation having a legal or equitable interest in a property and includes but not limited to a mortgagor in possession, an occupant, or a person, agent, firm or corporation that owns or exercises control over items of property such as utility poles, drop boxes, postal collection boxes, and other types of containers.
- 7) "Permit" means to knowingly allow, suffer, or acquiesce by any failure, refusal, or neglect to abate.
- 8) "Premises open to the public" means all public spaces, including but not limited to streets, alleys, sidewalks, parks, rights of way and public open space, and private property onto which the public is regularly invited or permitted to enter for any purpose.
- 9) "Property" means any real or personal property, including but not limited to items affixed or appurtenant to real property or premises, house, building, fence or structure and items of machinery, drop boxes, waste containers, utility poles and vaults, and post office collection boxes.
- 10) "Responsible party" means an owner, an entity or person acting as an agent for an owner by agreement, that has authority over the property or is responsible for the property's maintenance or management. There may be more than one party responsible for a particular property.
- 11) "Unauthorized" means without consent of the owner, occupant or responsible party.

Graffiti Nuisance Property

- 1) Any property location in the City of Tigard that becomes a graffiti nuisance property is in violation of this chapter and is subject to its remedies.
- 2) Every responsible party who permits a property to become a graffiti nuisance property is in violation of this chapter and subject to its remedies.

Graffiti Removal; Notice and Procedures

- 1) The owner or occupant of any property within the City of Tigard shall remove any graffiti from that property within 14 days of the graffiti's appearance.
- 2) Whenever the Manager determines that graffiti exists on any property in the City, the Manager may issue an abatement notice. The owner or occupant shall have 14 days after the date of service of the notice to remove the graffiti.
- 3) The notice shall be served by addressing the notice to the owner or occupant and delivering it by personal service or by mailing it as certified mail. Service may also be accomplished by posting the notice in a clearly visible location on the subject property.
- 4) If the person who was served the notice is unable to remove, or cause to remove, the graffiti within the seven-day period due to a hardship, he or she may apply to the Manager for an extension of time in which to remove the graffiti. For purposes of this subsection, "hardship" includes but is not limited to serious illness or disability, extremely inclement weather that temporarily prevents removal of the graffiti, or other extraordinary circumstance.
- 5) If the graffiti is not removed within 14 days after serving notice on the owner or occupant, the Manager may cause a citation to be issued to the owner or occupant or both requiring the person to appear in Tigard Municipal Court.
- 6) Failure to remove the graffiti as required by this section is a violation punishable by a fine of up to one hundred dollars. Each day the graffiti remains after the notice is sent constitutes a separate offense.
- 7) The City Manager may adopt rules and procedures to implement this chapter.

Agenda Item #

5

Meeting Date

01/16/07

COUNCIL AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title After School Programs

Prepared By: Sheryl Huiras

Dept Head Approval: bmd

City Mgr Approval: CP

ISSUE BEFORE THE COUNCIL

Review and discuss the City's involvement in the current after-school programs

STAFF RECOMMENDATION

Police Department staff recommends that the City implement its own after school programs and discontinue its partnership with PAL (Police Activity League), effective for the 07/08 City budget and the Tigard-Tualatin school year.

KEY FACTS AND INFORMATION SUMMARY

Since 2004 Tigard Police Department has been involved with PAL to provide after school programs to middle school students. The purpose of this program is to provide a safe and structured environment for students. This is a free program for the students, which runs from 3:30-6:00, Monday through Thursday. In FY 2005/2006 and FY 2006/2007 the City contributed \$10,000 each year to PAL to help provide these programs.

There have been several incidents where PAL has not followed through with anticipated service delivery. Examples include failure to provide required sports and activity equipment and staff; failure to provide an advertised field trip paid by the schools; failure to provide background checks or minimal training to PAL staff; etc. This level of after school youth programming does not meet TPD Youth Services expectations. Staff is recommending discontinuing Tigard's relationship with PAL in favor of direct provision of services. This recommendation is based on its involvement in and observations of the effectiveness of the current program. It is the opinion of Staff that implementation of after school programs provided by the City would:

- Provide our community's youth an improved and more structured program
- Provide a program that makes more effective use of City funds
- Improve our partnership and communication with the Tigard-Tualatin School District
- Increase youth participation in after school programs

During the discussion with the City Council on this agenda item, Police Department staff will provide City Council with additional information on the program offered by PAL and how a City program would be planned, implemented, monitored and evaluated for effectiveness.

OTHER ALTERNATIVES CONSIDERED

- Discontinue after school programs
 - Continue fiscal support of PAL without City staff support
-

CITY COUNCIL GOALS

One of the City's goals is to connect the council with the students and schools. This promotes the goal to improve communication and relationships with Tigard youth. Implementation of the City's own after school programs will advance achievement of the City's goal.

ATTACHMENT LIST

none

FISCAL NOTES

This year the City contributed \$10,000 to PAL. The staff would like the Council to consider creating our own after school programs for next years budget. Two grant applications have been submitted which would provide funds to supplement the City's current contribution to the after school program.

Agenda Item #
Meeting Date

6
January 16, 2007

COUNCIL AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Update on the geographical information system project and presentation of the crime analysis application

Prepared By: Robert Sesnon Dept Head Approval: RWS City Mgr Approval: CL

ISSUE BEFORE THE COUNCIL

Construction of a city-wide geographical information system (GIS) has been underway for several months and phase I of the initial pilot project has now been completed. This project allows a user to look up an address or location and view various crime information surrounding this location. This application will be of use to the City's police department during the investigation of crimes, as well as be made available soon to the public from the City's website.

STAFF RECOMMENDATION

No action is necessary

KEY FACTS AND INFORMATION SUMMARY

The current state of the City's geographical information system may be characterized as departmentalized, seriously outdated, and inadequate to meet the informational needs of the City. Consequently, a GIS Coordinator was hired in the spring of 2006 and tasked with the coordination and construction of a city-wide GIS. This work has been underway for several months and it is anticipated that the project will be completed within the next 24 months. One of the first fruits of this effort is a crime locator/analyzer application that enables the user to look up an address or location and view certain crime information surrounding this location. Phase I of this pilot project is now complete and is available for use by city staff. Phase II, to be completed by March 2007, will make this application available to citizens and others from the City's website.

OTHER ALTERNATIVES CONSIDERED

N/A.

CITY COUNCIL GOALS

The GIS system will provide tools to be used by staff in support of several of the City Council goals, including the revision of the City of Tigard comprehensive plan, implementation of the downtown plan, and improvements to the 99W corridor.

ATTACHMENT LIST

None.

FISCAL NOTES

None

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Agenda Item #

7

Meeting Date

January 16, 2007

COUNCIL AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Additional Funding Request for Pavement Management Services

Prepared By: A.P. Duenas

Dept Head Okay TC

City Mgr Okay CP

ISSUE BEFORE THE COUNCIL

Council direction will be requested on whether or not to proceed with a budget amendment to provide supplemental funding for pavement management services needed to establish a new 5-year street maintenance plan and re-evaluate the current Street Maintenance Fee rates based on that new plan.

STAFF RECOMMENDATION

That Council approve the request to move ahead with a budget amendment and direct staff to prepare the amendment and submit it for Council consideration at the January 23, 2007 Council meeting.

KEY FACTS AND INFORMATION SUMMARY

Ordinance No. 03-10 establishing the Street Maintenance Fee requires re-evaluation of the current fee rates after three full years of collections. Before the fee rates can be re-evaluated, the street condition ratings must be updated so that a new 5-year street maintenance plan can be developed based on those ratings.

The budgeted amount of \$30,000 in the FY 2006-07 operating budget is insufficient to provide the full range of services needed to allow for the establishment of the new 5-year street maintenance plan. The responses to the RFP (Request for Proposals) were for full services envisioned with the potential for additional services needed before the end of FY 2006-07. The \$81,800 proposal by IMS included anticipated fees from Hansen for their portion of the work. The Stantec proposal of \$74,043 did not include those fees, which are expected to be \$5,000 or more. The two proposals are basically equivalent in cost. The evaluation of the two proposals is currently ongoing and consultant selection is expected to be completed by the third week of January 2007. A supplemental amount of \$70,000 is requested to allow for award of a contract for the pavement management services and to provide for any additional services that may be needed during the remainder of FY 2006-07.

The re-evaluation of the Street Maintenance Fee rates must be completed during the next few months. If Council approves the request for additional funding for those services, a budget amendment will be prepared for Council consideration at the January 23, 2007 Council meeting. The additional funding will provide the means to update the street condition ratings, establish a new 5-year street maintenance plan, and re-evaluate the Street Maintenance Fee rates in a timely manner for incorporation into the FY 2007-08 budget formulation process.

OTHER ALTERNATIVES CONSIDERED

Do not submit the budget amendment to provide the supplemental funding.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

Timely maintenance of the public street infrastructure meets the Tigard Beyond Tomorrow goal of *Improve Traffic Safety*.

ATTACHMENT LIST

Memorandum from the City Engineer to the Community Development Department Director dated January 4, 2007 explaining the need for the supplemental funding.

FISCAL NOTES

The FY 2006-07 Community Development Department budget includes \$30,000 for pavement management services needed to update the street condition ratings, establish a new 5-year street maintenance plan, and subsequently re-evaluate the current Street Maintenance Fee charges as required by Ordinance No. 03-10. Based on the full scope of services developed in consultation with firms that provide those services, that budgeted amount needs to be supplemented with an additional \$70,000 to contract for those services and to provide a contingency amount for additional services that may be required during the remainder of FY 2006-07. The additional work will be paid for by Street Maintenance Fee and Gas Tax revenues. A budget amendment will be forthcoming to allocate the necessary funds.



MEMORANDUM

TO: Tom Coffee
Community Development Department Director

FROM: Gus Duenas *Gus*
City Engineer

RE: Request for Additional Funding
Pavement Management Services

DATE: January 4, 2007

The Street Maintenance Fee was established by Ordinance No. 03-10 in November 2003 and collections began in April 2004. The ordinance establishing the fee requires re-evaluation of the fee after three full years of collections. This re-evaluation must be completed during the next few months. It requires updating of the street condition ratings and establishment of a new 5-year maintenance plan, which will be used to determine the new residential and non-residential charges.

The decision was made a couple of years ago to convert the current Pavement Management software to the Hansen System. This would allow the Community Development staff to share information with Public Works staff already using various modules in that system. We purchased the Hansen Pavement Management Module in FY 2005-06, but were not able to activate it until the servers were upgraded to run the entire Hansen system adequately. The amount of \$30,000 is included in the FY 2006-07 Capital Construction and Transportation Division budget for pavement management services via consultant to update the street condition ratings and to train staff in the use of the Pavement Management Module.

During discussions with consultants in the preparation of the scope of work for the RFP (Request for Proposals), we found out that there is a lot more involved than updating of the ratings and training. The initial setup prior to the physical inspections, the data entry and conversion, the uploading of the data to Hansen, the certification of the data by Hansen, the creation of the reports needed, and any other services required after the training is completed are all necessary to ensure that the system is operational and able to be used by the City staff. Included in the overall costs are the fees that Hansen charges for their part of the process. So that the product can be complete as possible, we included digital photo acquisition in the RFP scope as part of the street rating updates to provide visual documentation of street segments.

The costs for those services are significant and were not anticipated during the budget formulation for this fiscal year. The work is best performed by consultants that are fully familiar with the Hansen System and are able to closely coordinate the data preparation, conversion, and upload so that it can be certified by Hansen. We, as City staff, do not want to assume responsibility for part of the scope

since we are not conversant with the process necessary to produce a fully operational system. The scope of work developed for the RFP therefore reflects the full services needed to establish the new system, to certify the data with Hansen, to ensure that the reports are the ones desired, and to fully train staff in the use of the software.

There were two proposals (IMS and Stantec) submitted in response to the RFP, both from firms that have performed this type of work successfully. Attached are the fee schedules from each firm showing the tasks to be performed and the compensation involved. The \$81,800 proposal by IMS included anticipated fees from Hansen for their portion of the work. The Stantec proposal of \$74,043 did not include those certification fees, which are expected to be \$5,000 or more. As a result, the two firms are basically equivalent in terms of fee proposal. Any services beyond the scope shown in the attachments would be at additional cost.

To ensure that sufficient funding is available during FY 2006-07, I request that the budgeted amount of \$30,000 be increased to \$100,000 to award the contract and provide a contingency amount for any additional services that may be needed as the contract is executed. This would require an additional amount of \$70,000 to supplement the budgeted amount.

I have discussed the need for this additional funding with Michelle Wareing of the Finance Department. This memorandum provides the justification she needs to begin the process for providing the supplemental amount.

The consultant selection committee is in the process of evaluating the proposals and will make a selection within the next two weeks. The consultant selected and awarded the contract would be able to complete the street rating work during any period that provides several days of relatively dry weather. We would like to move ahead quickly with this work so that establishment of the new 5-year maintenance plan and the re-evaluation of the fee can be completed and the new charges incorporated into the City's budget formulation process for FY 2007-08.

Attachments

c: Vannie Nguyen, CIP Manager
Marco Cabanillas, Project Engineer

4.0 COMPENSATION

4.1 FEE BASIS AND DELIVERABLES

The fee schedule presented herein is based on the IMS work plan and deliverables. A summary of the deliverables is as follows:

Task 1.0 – Project Initiation

- A technical memorandum outlining the approved project scope, deliverables and schedule.
- A technical memorandum defining the limits of the survey program and QA/QC procedures.
- A street inventory containing all existing streets to be surveyed plus identification of the location of new streets to be added to the surveys and database(s).
- One site meeting is planned for the project kick off meeting and confirming the scope of work.

Task 2.0 – Field Surveys

- A technical memorandum documenting the results of the project calibrations.
- Pavement surface distress data collection of 145 centerline miles of roadway. IMS will two pass test all roadways greater than 3 lanes bringing the adjusted mileage to 180 test miles.
- Updating the streets inventory and sectional attributes, including ownership.
- Collection of GPS and digital image data.
- The following project meetings are planned:
2 – meetings with the RST crew chief, one prior to the surveys and one at the completion of the surveys to review the data collection coverage.

Task 3.0 – Data Management

- System configuration of the Hansen V8 PMS.
- Pavement condition data loaded into the City's software application.
- Exceptions reports for inventory, length and attributes.
- Digital images, and GIS linkage data as ordered.
- Software training for users of the Hansen application.
- Report & Analysis.
- The following project meetings are planned:
2 – trip for software training meetings.

4.2 SERVICES TO BE PROVIDED BY THE CITY

In accordance with the RFP, the IMS work plan and fee schedule are based on the City providing the following information and services:

- Provision of GIS topology covering the survey area.
- Participation in the review of traffic volumes, unit rates and strategies.
- Access to the client sites and Hansen applications for implementation and loading.
- Provision of street width information if required.
- Participation in the software training

FEE SCHEDULE

The project will be completed using a combination of unit rate and lump sum based activities. Activities that can be physically measured – such as miles of road surveyed, will be completed on a unit rate basis. This will ensure each agency is only charged for the actual miles surveyed and approved. The spreadsheet presented on the following page is based on the IMS work plan and deliverables. It represents a realistic budget to complete the work, and we are confident we can maintain an on-time, on-budget approach to the assignment.

Task Activity	Quant	Units	Unit Rate	Total
A. Data Acquisition				
Project Initiation	1	LS	\$2,500.00	\$2,500.00
Network Referencing	180	MI	\$10.00	\$1,800.00
Distress Protocols	1	LS	\$1,500.00	\$1,500.00
Mobilization	1	LS	\$2,500.00	\$2,500.00
Pavement Data Collection	180	MI	\$100.00	\$18,000.00
B. Digital Photo Acquisition				
Digital Images	180	MI	\$12.00	\$2,160.00
C. Data Evaluation				
Data QA/QC, Format, and Processing	180	MI	\$20.00	\$3,600.00
GIS Linkage	180	MI	\$18.00	\$3,240.00
D. Data Entry				
IMS to Hansen Segment Based Condition Data Entry	8	Da	\$1,500.00	\$12,000.00
PMS Data Conversion Certification	3	Da	\$1,500.00	\$4,500.00
E. System Configuration				
System PMS Configuration	10	Da	\$1,500.00	\$15,000.00
F. Detailed Final Report				
Report & Analysis Development	8	Da	\$1,500.00	\$12,000.00
G. Staff Training				
On-site Training for Hansen PMS	5	Da	\$1,500.00	\$7,500.00
Eskel Porter Out Of Pocket Expenses (Billed As Incurred)	1	LS	\$5,000.00	\$5,000.00
Project Total:				\$81,800.00

The budget proposed is a not-to-exceed fee schedule that includes direct expenses from Eskel Porter and IMS. The IMS direct expenses are built into the proposed fees and Eskel Porter direct expenses are listed at the bottom of the fee schedule.



WORK PLAN TASKS

Task 1: Project Initiation

	Description
Objective	To review the City's goals and objectives, and develop an implementation plan for the Hansen Street and Pavement Management Modules
Activities	<ul style="list-style-type: none"> Attend project initiation meeting at the City Finalize contract, develop work plan, including scope of work, budget, schedule, deliverables, and quality control/quality assurance issues Finalize the data collection requirements in terms of distress types and summarization of results
Critical Issues	<ul style="list-style-type: none"> Schedule for the various tasks involved in the implementation Information/data to be provided by the City Availability of City staff to finalize the data collection requirements
Deliverables	<ul style="list-style-type: none"> Project implementation plan

Task 2: Pavement Data Collection and System Data Gathering

	Description
Objective	To assemble all required data elements for proper implementation of the Hansen Street and Pavement Management Modules
Activities	<ul style="list-style-type: none"> Review available City data sources "Gap Analysis" on data sources and recommendations for further data collection needs or standardize interim default values GIS linkage to road segmentation Surface Distress, Roughness, and optional ROW digital Image data collection
Critical Issues	<ul style="list-style-type: none"> Availability of existing GIS centerline with linkage to Hansen Street Database Availability of other required data elements, including: road functional classifications, traffic (AADT values), geometric information, pavement structure, maintenance/rehabilitation alternatives, and unit rates Identify other primary data sources
Deliverables	<ul style="list-style-type: none"> Upload files for the Hansen system (OBS_SC and OBS_IRI)



Task 3: System Configuration

	Description
Objective	To develop decision trees, identify suitable deterioration models, and Hansen system setups that will provide realistic Pavement Management system outputs
Activities	<ul style="list-style-type: none"> Develop pavement deterioration models based on pavement type, structural composition, and anticipated and predicted traffic considerations Consult with City on maintenance and rehabilitation strategies, including types, unit rates, timing, benefits, and life expectancy Definition of levels of service for various road classes Develop Rehabilitation Decision Trees Establish various budget scenarios
Critical Issues	<ul style="list-style-type: none"> Availability of staff for meetings City staff to provide input and acceptance of system configuration
Deliverables	<ul style="list-style-type: none"> Fully configured Pavement Management system ready to accept and analyze pavement condition data

Task 4: Hansen Upload

	Description
Objective	To upload all pavement source data including pavement condition and street segment attribute data collected during Task 2
Activities	<ul style="list-style-type: none"> Obtain copy of City's Hansen database Document conversion methodology and receive certification form Hansen Create required SQL scripts to populate the collected data into the Hansen Database Run scripts against a "test" database at client site and verify results Final data conversion to production database
Critical Issues	<ul style="list-style-type: none"> Copy of the City's Hansen database Hansen certification of upload process Successful upload of data
Deliverables	<ul style="list-style-type: none"> Hansen database fully populated with pavement condition and other data sources collected during this project



Task 5: Staff Training

	Description
Objective	To ensure that the City is self-sufficient in running and maintaining the Hansen software City staff understand the concepts and results of the Hansen outputs in order to generate programs and present the information to other City staff and Council
Activities	<ul style="list-style-type: none"> 2-day on-site Hansen training and system review session with selected City staff 2-day on-site Pavement Condition training with selected City staff
Critical Issues	<ul style="list-style-type: none"> Availability of staff for training Errors in core Hansen software functionality
Deliverables	<ul style="list-style-type: none"> Fully trained and self-sufficient staff equipped to maintain the Hansen system

Task 6: Final Report

	Description
Objective	To provide the City with a document that identifies the current and predicted future pavement conditions, outlines the City's rehabilitation needs and programs, and summarizes budgetary impacts on the City's road network performance over a 10-year period
Activities	<ul style="list-style-type: none"> Modifications to system configuration if required Consult with City to determine report format and deliverables Assemble and document all Hansen analyses Review and finalize report with the City
Critical Issues	<ul style="list-style-type: none"> Third party reporting software (i.e. Crystal Reports) available for use at and by the City City staff availability to review and "sign-off" on report
Deliverables	<ul style="list-style-type: none"> Comprehensive report on the Hansen implementation and findings (2 copies)

The following table outlines our fees to provide the services as defined in our proposal and do not include any applicable Federal, State, and Local taxes.

[illegible]